

I hereby certify that this correspondence is being transmitted via facsimile to Examiner Richard Schnizer at 703-872-9306 on September 30, 2003.

By: Maura Knobl  
Maura Knobl

PATENT  
Attorney Docket No. DB17 Div1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**OFFICIAL**

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Examiner: R. Schnizer CENTRAL FAX CENTER

SEP 30 2003

In re application of:

Michael Wittekind, et al.

Application No.: 09/965,594

Filed: September 27, 2001

For: Modified Forms of Hepatitis C NS3  
Protease for Facilitating Inhibitor Screening  
and Structural Studies of Protease:Inhibitor  
Complexes

**CELL DEPOSIT DECLARATION**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

I, Christopher A. Klein, declare and state as follows:

1. I am Senior Counsel, Biotechnology Patents, for Bristol-Myers Squibb Company, the sole Assignee of the above-identified patent application. The assignment is recorded at Reel 10941, Frame 0454, recorded June 28, 2000.

2. As a duly authorized signatory for the Assignee, I declare that cell pHCV-NMR1 was deposited with the American Type Culture Collection on January 7, 1999, assigned ATCC Designation Number 207040, cell pHCV-NMR3 was deposited with the American Type Culture Collection on January 7, 1999, assigned ATCC Designation Number 207041, and cell BMS-hCMV1 was deposited with the American Type Culture Collection on January 7, 1999, assigned ATCC Designation Number 207047, as evidenced by the attached ATCC "Budapest Treaty Deposit" receipts.

3. I hereby assure the United States Patent and Trademark Office and the public that (a) the duration of this deposit will be for thirty years from the date of deposit, or five years

Michael Wittekind, et al.  
Application No.: 09/965,594  
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PATENT

from the date of the most recent request for the furnishing of a sample of the deposited material, or for the enforceable life of a United States patent issuing on the subject application or an application which claims priority therefrom, whichever is longer; (b) while the subject application or an application which claims priority therefrom is pending in the United States Patent and Trademark Office, the deposit will be made available to the Commissioner or one entitled to such cultures under 37 CFR §1.14 and 35 USC §122; (c) after issuance of a patent on the subject application disclosing the deposit, or an application which claims priority therefrom, the deposit will be made irrevocably available to the public; and (d) the deposit will be replaced if found to be nonviable at any time during its deposit. Further, for any cell deposited with the ATCC after the filing date of the instant application, the deposited cell is the same cell as that specifically identified in the instant application as filed.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that I make these statements with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize validity of the application or any patent issuing thereon.

Bristol-Myers Squibb Company

Date: 30-September 2003 By: Christopher A. Klein  
Christopher A. Klein  
Senior Counsel, Biotechnology Patents

SR 5004654 v1

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# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

*INTERNATIONAL FORM*

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Bristol-Myers Squibb Co.  
Attn: Joseph M. Sorrentino  
P.O. Box 4000  
Princeton, NJ 08543-4000

Deposited on Behalf of: Bristol-Myers Squibb Co.

Identification Reference by Depositor:

ATCC Designation

Plasmid in *Escherichia coli* pHCVN\_NMR1  
Plasmid in *E. coli* pHCVN\_NMR3

207040  
207041

The deposits were accompanied by:     a scientific description X a proposed taxonomic description indicated above. The deposits were received January 7, 1999 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested January 20, 1999. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Barbara M. Halley  
Barbara M. Halley, Administrator, Patent Depository

Date: January 21, 1999

cc: Audrey F. Sher (Ref. Docket DB17\*)

DB22  
**ATCC**

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**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
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AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

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Bristol-Myers Squibb Co.  
Attn: Audrey F. Sher  
P.O. Box 4000  
Princeton, NJ 08543

Deposited on Behalf of: Bristol-Myers Squibb

Identification Reference by Depositor:

ATCC Designation

*Escherichia coli* BL21-DE3 containing 2 plasmids, BMS-hCMV1

207047

The deposit was accompanied by: \_\_\_ a scientific description X a proposed taxonomic description indicated above.

The deposit was received January 7, 1999 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

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Barbara M. Halley, Administrator, Patent Depository

Date: January 21, 1999